



Express Mail Label No. EV399913980US

PATENT
Attorney Docket No. MRK-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Cardy *et al.* CONFIRMATION NO.: 5220
SERIAL NO.: 08/737,457 GROUP NO.: 1644
FILING DATE: May 15, 1995 EXAMINER: Ewoldt, G.R.
TITLE: Improvements in or Relating to Peptide Delivery

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**SUBMISSION OF PAPER COPY AND/OR COMPUTER READABLE COPY
OF SEQUENCE LISTING FOR INVENTION
CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE**

Sir:

1. ☒ This replies to the Office communication dated January 13, 2003.
☒ A copy of the Office communication is enclosed.
2. Submitted herewith is/are
(check each item as applicable)
 - A. ☒ a paper copy of the Sequence Listing for this application with each sequence assigned a separate identifier; and
 - B. ☐ a CD of the Sequence Listing for this application with each sequence assigned a separate identifier; and
 - C. ☒ a copy, in computer readable form, of the Sequence Listing for this application.

Applicants respectfully request entry of the Sequence Listing, which is provided in both paper and computer-readable form in the above-identified application. The Sequence Listing submitted herewith is intended to replace the Sequence Listing currently on file in this application.



STATEMENT

3. I hereby state that:


(complete applicable items A, B and/or C)

- A. ☒ the contents of the paper and computer readable copy submitted herewith are the same; and
- B. ☐ the content of the CD and computer readable copy submitted herewith are the same; and
- C. ☐ the content of the computer readable copy submitted herewith is the same as the Sequence Listing appearing on pages __ to __ of the original specification as filed; and
- D. ☒ this submission includes no new matter.

Respectfully submitted,

Date: July 9, 2004
Reg. No. 48,645

Tel. No.: (617) 248-7697
Fax No.: (617) 248-7100



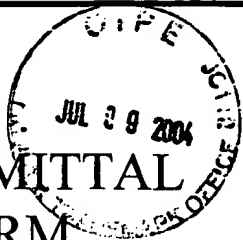
Brian A. Fairchild, Ph.D.
Attorney for Applicants
Testa, Hurwitz, & Thibault, LLP
High Street Tower
125 High Street
Boston, Massachusetts 02110

07/12/04

DAC #

Express Mail Mailing Label No. EV289510612US

TRANSMITTAL FORM



Application Serial Number	08/737,457
Filing Date	May 15, 1995
First Named Inventor	Cardy
Group Art Unit	1644
Examiner Name	Ewoldt, G.R.
Attorney Docket No.	MRK-003
Patent No.	Not applicable
Issue Date	Not applicable

RECEIVED

JUL 16 2004

OFFICE OF PETITIONS

ENCLOSURES (check all that apply)

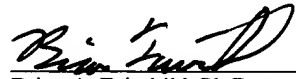
- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input checked="" type="checkbox"/> Check Attached
<input type="checkbox"/> Copy of Fee Transmittal Form
<input type="checkbox"/> Amendment/Response
<input type="checkbox"/> Preliminary
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____]
<input type="checkbox"/> Petition for Extension of Time
<input type="checkbox"/> Information Disclosure Statement (2 pages)
<input type="checkbox"/> Form PTO-1449
<input type="checkbox"/> Copies of IDS Citations (
<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Sequence Listing submission
<input type="checkbox"/> Paper Copy/CD
<input type="checkbox"/> Computer Readable Copy
<input type="checkbox"/> Statement verifying identity of above | <input type="checkbox"/> Copy of Notice to File Missing Parts of Application
<input type="checkbox"/> Formal Drawing(s)
<input type="checkbox"/> Request For Continued Examination (RCE) Transmittal
<input type="checkbox"/> Power of Attorney (Revocation of Prior Powers)
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application
<input type="checkbox"/> Small Entity Statement
<input type="checkbox"/> CD(s) for large table or computer program
<input type="checkbox"/> Amendment After Allowance
<input type="checkbox"/> Request for Certificate of Correction
<input type="checkbox"/> Certificate of Correction (in duplicate) | <input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences
<input type="checkbox"/> Appeal Brief (in triplicate)
<input type="checkbox"/> Status Inquiry
<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8
<input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8
<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below)
Notification Regarding Change in Status

07/15/2004 KKEMP1 00000003 08737457
01 FC:1461 1955.40 0P |
|--|---|--|

CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator
 Testa, Hurwitz & Thibault, LLP
 High Street Tower
 125 High Street
 Boston, MA 02110
 Tel. No.: (617) 248-7000
 Fax No.: (617) 248-7100

SIGNATURE BLOCK

Respectfully submitted,

 Date: July 9, 2004
 Reg. No. 48,645
 Tel. No.: (617) 248-7697
 Fax No.: (617) 248-7100
 Brian A. Fairchild, Ph.D.
 Attorney for the Applicants
 Testa, Hurwitz & Thibault, LLP
 High Street Tower
 125 High Street
 Boston, MA 02110

<div style="border: 1px solid black; border-radius: 50%; padding: 10px; display: inline-block;"> FEE TRANSMITTAL JUL 29 2004 OFFICE OF PETITIONS </div>		<i>Complete if Known</i>																																																																													
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METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																													
1. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other		3. ADDITIONAL FEES <div style="text-align: right; font-weight: bold;">JUL 16 2004</div> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Large Entity Fee (\$)</th> <th style="width: 15%;">Small Entity Fee (\$)</th> <th style="width: 55%;">Fee Description</th> <th style="width: 15%;">Fee Paid</th> </tr> </thead> <tbody> <tr> <td>130</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>50</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>130</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>2,520</td> <td>2,520</td> <td>Request for ex parte reexamination</td> <td></td> </tr> <tr> <td>110</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>420</td> <td>210</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>950</td> <td>475</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1480</td> <td>740</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>2010</td> <td>1005</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>330</td> <td>165</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>330</td> <td>165</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>290</td> <td>145</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>130</td> <td>130</td> <td>Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>180</td> <td>180</td> <td>Submission of Information Disclosure Statement</td> <td></td> </tr> <tr> <td>770</td> <td>385</td> <td>Filing a submission after final rejection (37 CFR 1.129(a))</td> <td></td> </tr> <tr> <td>770</td> <td>385</td> <td>For each additional invention to be examined (37 CFR 1.129(b))</td> <td></td> </tr> <tr> <td>100</td> <td>100</td> <td>Certificate of Correction for applicant's error</td> <td></td> </tr> <tr> <td colspan="3">Other fee (Specify)</td> <td>1955.00</td> </tr> </tbody> </table>		Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	130	65	Surcharge - late filing fee or oath		50	25	Surcharge - late provisional filing fee or cover sheet		130	130	Non-English specification		2,520	2,520	Request for ex parte reexamination		110	55	Extension for reply within first month		420	210	Extension for reply within second month		950	475	Extension for reply within third month		1480	740	Extension for reply within fourth month		2010	1005	Extension for reply within fifth month		330	165	Notice of Appeal		330	165	Filing a brief in support of an appeal		290	145	Request for oral hearing		130	130	Petitions to the Commissioner		180	180	Submission of Information Disclosure Statement		770	385	Filing a submission after final rejection (37 CFR 1.129(a))		770	385	For each additional invention to be examined (37 CFR 1.129(b))		100	100	Certificate of Correction for applicant's error		Other fee (Specify)			1955.00
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2. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531. <input type="checkbox"/> Required Fees (copy of this sheet enclosed). <input checked="" type="checkbox"/> Additional fee required under 37 CFR 1.16 and 1.17. <input checked="" type="checkbox"/> Overpayment Credit.																																																																															
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CORRESPONDENCE ADDRESS		SIGNATURE BLOCK																																																																													
Direct all correspondence to: Patent Administrator Testa, Hurwitz & Thibault, LLP High Street Tower-125 High Street Boston, MA 02110 Tel. No.: (617) 248-7000 Fax No.: (617) 248-7100		Respectfully submitted, <div style="text-align: center;"> Brian A. Fairchild, Ph.D. Attorney for the Applicants Testa, Hurwitz & Thibault, LLP High Street Tower-125 High Street Boston, MA 02110 </div> Date: July 9, 2004 Reg. No.: 48,645 Tel. No.: (617) 248-7697 Fax No.: (617) 248-7100																																																																													



DIVISION

Express Mail Mailing Label.: EV289510612US

#50

PATENT
Atty. Docket No. MRK-003

2004 JUL 14 AM 11:30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JUL 16 2004

OFFICE OF PETITIONS

APPLICANT(S): Cardy *et al.* CONF. NO. 5220
SERIAL NO.: 08/737,457 GROUP NO.: 1644
FILING DATE: May 15, 1995 EXAMINER: Ewoldt, G.R.
TITLE: IMPROVEMENTS IN OR RELATING TO PEPTIDE
DELIVERY

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

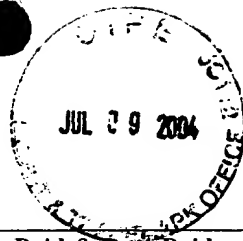
NOTIFICATION REGARDING CHANGE IN STATUS

Sir:

Pursuant to 37 C.F.R. § 1.27(g)(2), Applicants notify the U.S. Patent and Trademark Office (USPTO) that status as a small entity is no longer appropriate for the above-identified patent application.

Through error, the USPTO was not notified of a loss of entitlement to small entity status in May of 2001. Applicants request that this error be excused under 37 C.F.R. § 1.28(c). Applicants submit herewith a check in the amount of \$1955.00 for payment of the total deficiency payment owed as itemized below in accordance with 37 C.F.R. § 1.28(c)(2). Applicants believe that no other fees are due with this submission. Nevertheless, please charge any other required fees to Deposit Account No. 20-0531.

Type of Fee	Fee Paid & Date Paid (Small Entity Amount)	Current Fee Amount (Non-Small Entity)	Deficiency (Amount Owed)
Basic Filing Fee	\$345.00 on May 25, 2001	\$770.00	\$425.00
Excess Total Claims Fee (2 extra)	\$18.00 on May 25, 2001	\$36.00	\$18.00
Excess Independent Claims Fee (2 extra)	\$80.00 on May 25, 2001	\$172.00	\$92.00



Type of Fee	Fee Paid & Date Paid (Small Entity Amount)	Current Fee Amount (Non-Small Entity)	Deficiency (Amount Owed)
Multiple Independent Claim Fee	\$135.00 on May 25, 2001	\$290.00	\$155.00
One-month Extension of Time Fee	\$55.00 on May 25, 2001	\$110.00	\$55.00
One-month Extension of Time Fee	\$55.00 on August 13, 2001	\$110.00	\$55.00
Three-month Extension of Time Fee	\$460.00 on April 15, 2002	\$950.00	\$490.00
Petition for Revival of an Unintentionally Abandoned Application	\$665.00 on February 26, 2004	\$1,330.00	\$665.00
Total Deficiency			\$1955.00

Respectfully submitted,

Date: July 9, 2004
Reg. No.: 48,645

Tel. No. (617) 248-7697
Fax: (617) 248-7100

3090727

A handwritten signature in black ink, appearing to read "Brian A. Fairchild".

Brian A. Fairchild, Ph.D.
Attorney for Applicants
Testa, Hurwitz, & Thibault
High Street Tower
125 High Street
Boston, Massachusetts 02110

2004 JUL 14 AM 11:30

PATENT
DIVISION



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20530
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/737,457	03/12/1997	DONALD LEONARD NICHOLAS CARDY	960670. <i>CNC</i>	5220

~~7590~~
ORREN M HAUGEN
HAUGEN AND NIKOLAI
820 INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 554023325

COPY

EXAMINER

EWOLDT, GERALD R

ART UNIT PAPER NUMBER

16-44

DATE MAILED: 01/13/2003

39

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

08/737,457

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	37

Please find below a communication from the EXAMINER in charge of this application

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132. Specifically, the sequence in Figure 10 and in the seventh paragraph at page 8 of the specification must be brought into sequence compliance.

APPLICANT IS GIVEN 30 days FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Any inquiry concerning this communication should be directed to Dr. Gerald Ewoldt whose telephone number is (703) 308-9805. If the examiner cannot be reached, inquiries can be directed to Supervisory Patent Examiner Christina Chan whose telephone number is (703) 308-3973. The fax number for the organization where this application is assigned is (703) 308-4242.

G.R. Ewoldt, Ph.D.
Patent Examiner
Tech Center 1600
December 27, 2002



Application No.: 08/737,457

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: _____

Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

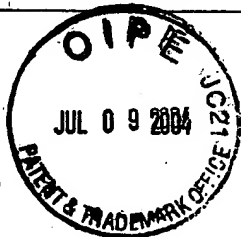
Technical Assistance.....703-287-0200

To Purchase PatentIn Software.....703-306-2600

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Paper No. 44

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Haugen and Nikolai
820 International Centre
900 Second Avenue South
Minneapolis, MN 55402-3325

REC'D APR 12 2004

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APR 09 2004

OFFICE OF PETITIONS

In re Application of
Cardy et al.
Application No. 08/737,457
Filed: March 12, 1997
Attorney Docket No. 960670.CNC

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and /or Amino Acid Sequence Disclosures mailed January 13, 2003. The Notice set a period for reply of (30) Thirty Days from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 14, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Item (1), The reply filed March 1, 2004 fails to comply with the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed January 13, 2003. Accordingly, this application cannot be revived until a complete reply has been submitted.

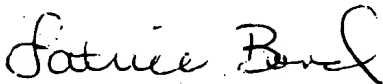
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Box DAC
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By facsimile: (703) 872-9306
 Attn: Office of Petitions

By hand: 2201 South Clark Place
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Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



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